

Document No. 3775

Voted at Meeting of 5/3/79
May 3, 1979

MEMORANDUM

TO: BOSTON REDEVELOPMENT

FROM: ROBERT J. RYAN, DIRECTOR

SUBJECT: REPORT AND DECISION ON THE CHAPTER 121A
APPLICATION OF HEMENWAY APARTMENTS COMPANY

On April 12, 1979 the Authority conducted a public hearing with respect to the above-captioned Application. At that meeting the Board heard a presentation by the Applicants.

The Project consists of the acquisition, rehabilitation, operation and maintenance of 183 apartments for low income and elderly individuals and families, at 97 and 149 Hemenway Street and 491, 497, 499, 873, 875, and 877 Huntington Avenue.

The Staff has examined the Application and found that it contained sufficient evidence in support of the Project to permit the Authority to make those findings and determinations necessary to proceed with the approval of the Project.

It is therefore recommended that pursuant to Chapter 121A of the General Laws, the Authority adopt the Report and Decision approving the Project.

An appropriate Vote follows:

VOTED: That the document presented at this meeting entitled "Report and Decision On The Application of Hemenway Apartments Company, for the Authorization and Approval of a Project Under Massachusetts General Laws (TER ED) Chapter 121A as Amended, and Chapter 652 of the Acts of 1960, to be Undertaken and Carried out by a Limited Partnership Formed under M.G.L. Chapter 109, and Approval to Act as an Urban Redevelopment Limited Partnership Under said Chapter 121A" be and is hereby approved and adopted.

BOSTON REDEVELOPMENT AUTHORITY

REPORT AND DECISION ON THE APPLICATION OF
HEMENWAY APARTMENTS COMPANY, FOR THE
AUTHORIZATION AND APPROVAL OF A PROJECT
UNDER MASSACHUSETTS GENERAL LAWS (TER.ED.)
CHAPTER 121A AS AMENDED, AND CHAPTER 652
OF THE ACTS OF 1960, TO BE UNDERTAKEN AND
CARRIED OUT BY A LIMITED PARTNERSHIP FORMED
UNDER M.G.L. CHAPTER 109, AND APPROVAL TO
ACT AS AN URBAN REDEVELOPMENT LIMITED
PARTNERSHIP UNDER SAID CHAPTER 121A.

A. The Hearing. A public hearing was held at 2 p.m. on April 12, 1979, in the offices of the Boston Redevelopment Authority (hereinafter called the "Authority"), at the new City Hall, Room 921, Boston, Massachusetts 02201, by the Authority on an Application, dated March 7, 1979, (hereinafter called the "Application"), filed by Hemenway Apartments Company, for authorization and approval of a redevelopment project under Chapter 121A of the General Laws of the Commonwealth of Massachusetts and Chapter 652 of the Acts of 1960, as amended, (hereinafter called the "Project"), due notice of said hearing having been given previously by publication on March 28, 1979, and April 14, 1979, in the Boston Herald American, a daily newspaper of general circulation published in Boston, and mailing postage prepaid in accordance with Rule 4 of the Rules and Regulations of the Authority for securing approval of Chapter 121A projects, and in accordance with the provisions of Section 13 of Chapter 652 of the Acts of 1960, as amended. Robert L. Farrell, Chairman of the Authority, James G. Colbert, Joseph J. Walsh, James K. Flaherty and James E. Cofield, Jr., members of the Authority, were present at the hearing.

B. The Project. The Project Area is comprised of several parcels of land known as 97 and 149 Hemenway Street and 491, 497, 499, 873, 875 and 877 Huntington Avenue, more fully described in the metes and bounds description in the Application.

A list of the present owners of the project area is as follows:

<u>Property</u>	<u>Owner</u>
97 Hemenway Street	Irwin S. Brooks
141-149 Hemenway Street	Francis D. Privitera
491 Huntington Avenue	Franklin S. Kartun
497 Huntington Avenue	Leon R. Pooch on behalf of 497 Trust
499 Huntington Avenue	Resource Investment, Inc. Mortgagee
873-877 Huntington Avenue	Somerset Savings Bank

The Project consists of the acquisition, rehabilitation, operation, and maintenance of apartment units. The Project, after rehabilitation will contain one hundred thirty-nine (139) one-bedroom units, twenty-two (22) two-bedroom units, and twenty-two (22) efficiency units. The appurtenant facilities will include community space, laundry rooms, and landscaping. The apartments in the Project will be occupied by low income and elderly individuals, all of whom shall be eligible for rental subsidies provided by HUD pursuant to Section 8 of the U.S. Housing Act of 1937, as amended.

The six parcels which make up the Project Area each constitute substandard and decadent conditions in an area that will remain a significant residential, institutional and industrial community if key properties which have a blighted effect, are rehabilitated. The prompt and careful execution of the Project can reinforce the importance of Huntington Avenue.

There is also a shortage of high quality housing for persons of low and moderate income in the area affected by the Project. The Project has been designed to help meet this need.

C. Authority Action. In passing upon the Application, the Authority has considered the Application itself, all documents, plans and exhibits filed therewith or referred to therein, the oral evidence presented at the hearing, and arguments and statements made at the hearing.

The Project as defined in the Application, constitutes a Project within the meaning of Section 1 of Chapter 121A of the General Laws, providing as it does, for the purchase, construction and maintenance in a blighted, decadent, and substandard area.

D. Project Area. The Project Area, with the exception of the parcel located at 873-877 Huntington Avenue is part of the Fenway Urban Renewal Area, which has been declared under Chapter 121 of the General Laws to be a blighted, decadent and substandard area. The Project Area is decadent and substandard, as those terms are defined in Section 1 of Chapter 121A, because all of the buildings are out of repair, physically deteriorated and dilapidated, and, (with the exception of the building located at 491 Huntington Avenue which is presently occupied) unfit for human habitation. Therefore, in the opinion of the Applicant, the Project Area is detrimental to the safety, health, morals, welfare and sound growth of the community.

Five of the six parcels are boarded up because they are structurally unsafe and badly in need of extensive rehabilitation. These five parcels have been broken into and vandalized and have suffered extensive interior damage. Not only do the existing plumbing and heating, as well as electrical systems need replacing or major repairs, but substantial exterior work on the buildings would be required for suitable occupancy. The lone parcel which is presently occupied, located at 491 Huntington Avenue, although marginally suitable for occupancy, required substantial work to restore the existing units to a profitable operation.

Since the Project Area is in close proximity to family housing, the Project Area threatens the continued stability of the surrounding neighborhood. The Project Area is also detrimental to the community because of its costs to the City of Boston, which presently collects no tax revenues from five of the six parcels. The foregoing conditions make it improbable that the area will be redeveloped by the ordinary operation of private enterprise, especially not for quality multi-family development in accordance with the "basic goals" of the Authority's Fenway Urban Renewal Plan.

The Project Area is detrimental to the health, safety and sound growth of the Community for the reasons stated above and are conditions which have not, and in the opinion of the Applicant, will not be remedied by the ordinary operations of private enterprise.

Without the aids available under G.L. Chapter 121A as is evidenced by the requirements of the mortgage lender attached to the application, that the real estate taxes be limited to contain percentages of the project's estimated gross annual income, which percentage levels can only be lawfully agreed to by the City of Boston under G.L. Chapter 121A and Chapter 6A, the site would not be developed. These conditions and other factors referred to in the Application and this Report and Decision warrant the carrying out of the Project in accordance with Chapter 121A. The proposal constitutes a "project" within the meaning of that statute.

For these reasons, it is found that the Project Area is a blighted, decadent and substandard area within the meaning of Chapter 121A, as amended. It is unlikely that the conditions will be remedied by the ordinary operations of private enterprise.

The Project will provide substantial financial return to the City of Boston. The 6A Tax Agreement attached to the Application sets forth the Agreement to be entered into between the City of Boston and the Applicants. This Agreement provides in substance that there be paid to the City of Boston in lieu of real estate taxes in each of the forty (40) calendar years after approval of the Project.

Throughout the rest of the project years, the Applicant will pay between 10.5% to a maximum of 15%. Further, the Applicant shall place in escrow an amount equal to that which shall be payable to the City upon settlement of the outstanding tax averages. Such escrow shall be due to the City at the time of closing on the Project Area.

E. Cost of the Project. In the opinion of the Authority, the cost of the project has been realistically estimated in the Application and the Project is practicable. The estimated minimum cost of the project will be Six Million Six Hundred Eighty-Eight Thousand Eight Hundred Eighty-Nine (\$6,688,889.00) Dollars. The major source of financing is anticipated to be an MHFA mortgage of approximately Six Million Twenty Thousand (\$6,020,000.00) Dollars.

The terms of the permanent loan shall be for forty (40) years. The Project will be assisted by rent supplement under Section 8 of the U.S. Housing Act for 100% of the units.

The following are all the persons, natural or corporate, who have or will have, directly or indirectly, any beneficial interest in the Project prior to its completion:

Hemenway Apartments Company, a Massachusetts Limited Partnership

General Partner: Francis Burke, Esq.

Limited Partners: Investors in Hemenway Apartments Company

HUD

MHFA

The Application contains the Corporate Articles of Organization for the Limited Partnership. The Articles illustrate the corporate purposes and structures. Experience with similar financing and organization methods persuades the Authority that the financial program is realistic.

F. Environmental Considerations. Pursuant to the provisions of Section 61 of Chapter 30 of the General Laws (as inserted by Chapter 781 of the Acts of 1972), the Authority hereby finds and determines that the Project will not result in significant damage to or impairment of the environment and further finds and determines that all practicable and feasible means and measures have been taken, or will be utilized, to avoid or minimize damage to the environment.

As a result of the investigations and report of the Authority's staff and of its own knowledge, the Authority hereby finds that. (*)

1. The Project will not adversely affect any open space or recreation area or any aesthetic values in the surrounding area.
2. The Project will not adversely affect any archaeological or historical site, structure, or feature (; rather it is expected that the Project will enhance the historic features of the area.)
3. The Project will not adversely affect any significant natural or man-made feature or place but is determined to be compatible with the surrounding environment.
4. Being located in an urban area, the Project will not affect any wilderness area or area of significant vegetation and will not adversely affect any rare or endangered fisheries, wildlife or species of plants.
5. The Project will not alter or adversely affect any flood hazard area, inland or coastal wetland, or any other geologically unstable area.
6. The Project will not involve the use, storage, release, or disposal of any potentially hazardous substances.
7. The Project will not affect the potential use or extraction of any agricultural, mineral, or energy resources.
8. The Project will not result in any significant increase in consumption of energy or generation of solid waste.
9. The Project will not adversely affect the quantity or quality of any water resources and will not involve any dredging.
10. Except necessarily during the construction phase, the Project will not result in the generation of a significant amount of noise, dust, or other pollutants, and will not adversely affect any sensitive receptors.
11. The Project will not adversely affect any area of important scenic value.

12. The Project will not conflict with any Federal State, or local land use, transportation, open space, recreation, and environmental plans and policies.
13. The Project will require deviations from the Zoning Code of the City of Boston as further detailed herein, but not in such a manner as will cause damage to the environment.

In order to avoid or minimize any damage to the environment, the Authority hereby requires that the applicant comply with the City of Boston Air Pollution Control Commission's Regulation~for the Control of Noise and Regulations for the Control of Atmospheric Pollution during all phases of construction activity.

G. Consistency with Master Plan. The Project does not conflict with the Master Plan for the City of Boston since the Project Area comes within a classification in the Master Plan which permits buildings and uses of the kind proposed by the Applicant.

H. Effect of the Project. The Project will not be in any way detrimental to the best interest of the public or the City or to the public safety or convenience or be inconsistent with the most suitable development of the City. The Project will, in fact, forward the best interests of the City and will constitute a public use and benefit. The structures to be rehabilitated in the Project Area have been reviewed by the Design Review Staff of the Authority and is subject to further design review should the proposed design change in any way. The Authority finds that this Project will enhance the general appearance of the Area and will furnish attractive and necessary landscaping.

The carrying out of the Project will involve the relocation of numerous families. The approval of this project is conditioned upon the Applicant's adherence to the relocation plan filed with the Application.

The Project Area does not include land within any location approved by the State Department of Public Works for the extension of the Massachusetts Turnpike into the City of Boston.

I. Minimum Standards. The minimum standards for financing, construction, maintenance and improvement of the Project as set forth in the Application, are hereby adopted and imposed as Rules and Regulations (in addition to those hereinafter adopted and imposed) applicable to this Project for the same period as the Project is subject to the provisions of Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960, as amended.

In addition to the minimum standards set forth in the Application, the Authority hereby requires that the Applicants, prior to obtaining a building permit, (1) enter into a Regulatory Agreement with the Authority pursuant to the requirements of General Laws, Chapter 121A, Section 18C, and containing such other terms and conditions as the Authority may in its discretion deem necessary and appropriate; (2) submit to the Authority for its review and approval such plans and specifications for the Project as the Authority may require and accept such changes and modifications thereto as the Authority may deem necessary or appropriate; and (3) adhere to such design review controls and requirements as the Authority may in its discretion impose.

The carrying out of the Project will not require a permit for the erection, maintenance and use of a garage within 500 feet of one or more buildings occupied in whole or in part as a public or private school having more than 50 pupils, or as a public or private hospital having more than 25 beds, or as a Church.

The Project does not require a declaration that the buildings contemplated constitute a separate building for the purpose of General Laws, Chapter 138.

J. Zoning and Building Code Deviations. Proposed Deviations filed with and attached to the Application as Appendix 10 lists the zoning deviations requested. For the reasons set forth in the Application and the evidence presented at the hearing, the Authority hereby finds that the attached zoning deviations, attached hereto and

incorporated by reference as Exhibit A, are necessary for the carrying out of the total project and therefore granted without substantially derogating from the intent and purposes of the applicable laws, codes, ordinances and regulations, respectively.

K. Duration of Period of Tax Exemption. In addition to the base term of fifteen (15) calendar years for the Project's period of tax exemption, pursuant to the provisions of Section 10 of Chapter 121A, as amended by Chapter 827 of the Acts of 1975, the Authority hereby determines that the Project shall be entitled an extension of twenty-five (25) years beyond the base period. This determination is based upon the fact that the proposed Project is designed for housing for persons of low and moderate income which housing shall be subsidized under HUD's Section 8 rental assistance program.

L. Decision. For all the reasons set forth in the foregoing report, the Authority hereby approves the undertakings by the Applicant of the Project pursuant to Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960, subject to the provisions set forth in this Report and Decision.

EXHIBIT A

ZONING DEVIATIONS REQUESTED

The Applicant requests permission to deviate from certain provisions of the Boston Zoning Code as follows:

491 Huntington Avenue - H-2 District

1. Permission to deviate from the maximum floor area ratio of 2.0; proposed floor area ratio is 4.8.

497-499 Huntington Avenue - H-2 District

1. Permission to deviate from maximum floor area ratio of 2.0; proposed floor area ratio is 4.7.

873-877 Huntington Avenue - H-2 District

The Applicant does not request any variance from the Boston Zoning Code.

NOTE: The proposed rehabilitation of this parcel by the Applicant will require a building code variance. The State Building Code, Section 609.11 requires two means of egress per dwelling unit. The Applicant proposes to have two means of egress from each building unit leading to the same passageway without fire doors. The Applicant is presently seeking a variance from provision 609.11 from the Board of Appeals.

97 Hemenway Street - H-3 District

1. Permission to deviate from the requirements of Section 8-7, Table A, Use Item 8. (The proviso in Use Item 8 is not satisfied because the floor area of the building will be increased over what it is now when the building is converted for more families.)
2. Permission to deviate from maximum floor area ratio of 3.0; proposed floor area ratio is 4.9.
3. Permission to deviate from requirement of 100 square feet of usable open space per dwelling unit; proposed usable open space of 34 square feet per dwelling unit.

4. Permission to deviate from front yard minimum of 15 feet; presently existing parcel and proposed building will have 5 feet of front yard.
5. Permission to deviate from side yard minimum of 15 feet; presently existing parcel and proposed building will have no side yard.
6. Permission to deviate from rear yard minimum of 14 feet; proposed rear yard minimum is 9.5 feet.
7. Permission to deviate from requirement of minimum of .6 space per unit; present parcel has no on-site parking and none is proposed.

143 Hemenway Street - H-3 District

1. Permission to deviate from maximum floor area ratio of 3.0; proposed floor area ratio is 3.2.
2. Permission to deviate from requirement of .6 parking space per unit; present parcel has no on-site parking and none is proposed.

